

HIGLE CONSTRUCTION,)	AGBCA No. 2004-108-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
L. Jack Higle, Owner)	
Higle Construction)	
P.O. Box 791)	
Eureka, Montana 59917)	
)	
Representing the Government:)	
)	
Mark D. Lodine, Esquire)	
Office of the General Counsel)	
U. S. Department of Agriculture)	
P.O. Box 7669)	
Missoula, Montana 59807)	

DECISION OF THE BOARD OF CONTRACT APPEALS

June 17, 2004

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

By letter dated November 14, 2003, Higle Construction of Eureka, Montana (contractor), filed this appeal with the Board, involving the U. S. Department of Agriculture, Forest Service (Government). The contractor had been providing equipment and services after accepting a dispatch order under its Emergency Equipment Rental Agreement, No. 56-0351-3-0134, at the Blackfoot Lake Fire in the Flathead National Forest in Montana. When under contract and approaching the camp, the contractor's vehicle struck a sign (a log identifying a ranch) that spanned the roadway. The contracting officer issued a bill of collection to recover \$4,548.75, said to represent the repair and replacement costs of the sign damaged by the contractor. This appeal ensued, as the contractor disputes the Government's claim. The contractor asserts that it should not be responsible for the damage because, contrary to state law requirements, there was no posting of the height or clearance for the sign; the contractor contends that the vehicle did not exceed the minimum height requirement for unposted signs spanning a road.

The Board has jurisdiction over this timely-filed appeal pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended (CDA). Following the submission of the appeal file, complaint, and answer, the parties engaged in informal discovery. On June 16, 2004, the Board received a letter from the Government stating that it will not pursue its bill of collection; that is, the Government will not pursue its claim for recovery, as the contracting officer has withdrawn and dropped the claim because he has concluded that the contractor was not at fault for the damage. Accordingly, the Government represents that the Board may dismiss with prejudice this matter that the parties resolved.

DECISION

The Board dismisses with prejudice this appeal.

JOSEPH A. VERGILIO
Administrative Judge

Concurring:

HOWARD A. POLLACK
Administrative Judge

ANNE W. WESTBROOK
Administrative Judge

Issued at Washington, D.C.
June 17, 2004